**BEFORE THE**
**FEDERAL COMMUNICATIONS COMMISSION**
**WASHINGTON, D.C. 20554**

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| **In the Matter of** | ) | |
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| **Amendment of Part 90** | ) | **WP Docket No. 07-100** |
| **of the Commission's Rules** | ) | |

**To: The Federal Communications Commission**

# COMMENTS OF THE INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC. AND THE INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION

The International Association of Fire Chiefs, Inc. ("IAFC"), and the International Municipal Signal Association ("IMSA") respectfully submit these comments in response to the Federal Communications Commission's ("Commission") Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.[1] As leading representatives of the Fire and Emergency Medical Services ("EMS") communities, IMSA and IAFC welcome this opportunity to share their views regarding the proposed changes to Part 90 of the Commission's Rules. IAFC and IMSA urge the Commission to adopt an Order consistent with the positions put forth herein.

## I. STATEMENT OF INTEREST

IAFC is a voluntary, professional membership society. Its membership, comprised of approximately 13,000 senior Fire Service officials, is dedicated to the protection of life and property throughout the United States and abroad. IAFC, founded in 1873, is the major national

[1] *See* Amendment of Part 90 of the Commission's Rules, *Notice of Proposed Rulemaking,* WP Docket No. 07-100; FCC 07-85 (2007) ("NPRM").

professional association representing the interests of senior management in the Fire Service. The Fire Service is the largest provider of emergency response medical services in the United States.

IMSA is a non-profit organization dedicated to the development and use of electric signaling and communication systems in furtherance of public safety. IMSA's 11,000 members include representatives of federal, state, county, city, township and borough governmental bodies, and representatives of governmental bodies from foreign nations. Organized in 1896, IMSA is the oldest organization in the world dedicated to the activities pertaining to electrical engineering, including the public safety use of radio technology.

Together, IMSA and IAFC are recognized by the FCC as one of the four public safety frequency coordinating committees, and have responsibility for the frequencies assigned exclusively for Fire and EMS as well as the Public Safety Pool channels. IAFC and IMSA members make use of frequencies in the Private Land Mobile Radio ("PLMR") service especially in the 150-174 MHz band.

## II. THE COMMISSION'S NPRM

The NPRM proposes multiple changes to Part 90 of the Commission's rules. In addition, the NPRM seeks comment on changes to the rules governing the 4.9 GHz band and the Wireless Medical Telemetry Service ("WMTS"). These Comments focus on those proposals that affect the Public Safety Radio Services, particularly the Fire Radio Service and Emergency Medical Radio Service ("EMRS").

**Paging on Public Safety VHF Frequencies.** The Commission seeks comment on whether it should place any restrictions on paging operations conducted on VHF public safety frequencies, and, in particular, VHF public safety frequencies reserved for mutual

aid/interoperability communications.[2] In addition, the Commission asks whether it should eliminate paging operations on VHF public safety frequencies altogether.

Placing additional restrictions on paging operations on VHF public safety frequencies is ill-advised. While it is commendable that the Commission appears to be acting out of a concern for maintaining the reliability of public safety two-way voice communications, ultimately its effort is misdirected and, if adopted, could endanger the health and safety of communities across the U.S. Further, restrictions on paging operations on VHF public safety frequencies will result in a significant, negative impact on the ability of public safety agencies, including Fire and EMS, to provide mission-critical communications. Eliminating altogether paging operations on VHF public safety frequencies risks crippling such operations.

Fire and EMS departments in major metropolitan areas, and mid-sized and small cities, heavily rely on VHF paging systems to alert personnel to emergency calls, particularly volunteer and off duty personnel. VHF paging has evolved as the predominant means by which such notifications are communicated. Many Fire and EMS departments have over 1,000 pagers deployed at any one time. The ability and value of VHF paging has been proven time and again. The Commission's Independent Panel addressing Hurricane Katrina recognized the important role that paging systems serve in disaster situations, concluding that paging appeared more reliable in certain instances than voice/cellular systems due to inherent redundancy whereby messages may still be relayed if a single transmitter or group of transmitters in a network fails, long battery life, and effective text and broadcast messaging.[3]

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[2] *See* NPRM at para. 4-6.

[3] *Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks Report and Recommendations to the Federal Communications Commission*, at paragraph 5, page 10, In the Matter of Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, *Notice of Proposed Rulemaking*, FCC 06-83, EB Docket No. 06-119 (June 19, 2006).

Without the availability of VHF paging systems, the Fire and EMS community would be forced to satisfy emergency alert and notification requirements through either 24x7 radio dispatch services or by migration to paging services in other bands, the propagation characteristics of which would require total system redesign, particularly in geographic areas in which the wide area coverage provided by VHF is necessary.[4] While the former is neither spectrally efficient nor practical, both options would require a substantial investment in equipment and network infrastructure, funding for which is simply not available. Moreover, to the extent that many Fire and EMS departments conduct paging on a co-channel basis with their two-way voice communications systems, migration of paging operations to other frequencies will require investment in redundant equipment.

Available spectrum to accommodate a mass migration of paging services to other bands does not currently exist. As the Commission is aware, the National Public Safety Telecommunications Council ("NPSTC" ) has requested that the Commission allocate spectrum in the 900 MHz band for public safety paging operations.[5] Perhaps, it is this request for additional paging frequencies that provides the basis for the Commission to propose potentially restricting, or eliminating entirely, likely the most important spectrum currently allocated for public safety paging services. This approach is ill-advised. The Commission should not attempt to remedy addressable interference reports in the VHF band by unwisely reducing spectrum available for public safety licensees and thus creating a more dire situation elsewhere.

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[4] Commercial service is prone to failure and congestion in emergency situations is not an acceptable substitute for mission-critical private communications networks. The tragic events of August 1, 2007 in Minnesota highlight the inadequacies of commercial services. *See* Steve Alexander, Cell-phone providers not equipped for disasters, Star Tribune, available online at http://www.startribune.com/154/story/1341225.html (last visited August 9, 2007).

[5] *See* Letter to Kevin J. Martin, Chairman, Federal Communications Commission, from Vincent R. Stile, Chair, NPSTC, WT Docket 05-62 (May 3, 2007).

IAFC and IMSA submit that to the extent that interference is a concern, the public safety community, including public safety coordinators such as IMSA and IAFC, are fully capable of resolving such issues without additional regulation. This is not the case of competitive, adverse differences between competing commercial service providers looking to protect exclusive areas of operation. Public safety licensees have a history of amicably working within the community to resolve interference issues and are fully capable of so doing in this instance. In the experience of IMSA and IAFC, where flexible, mutually agreed upon solutions are available, Commission regulation, even if well-intentioned, is unwarranted and unnecessarily restrictive. Given the low incidence of interference between paging operations conducted on VHF public safety frequencies, the substantial operational and financial investment in VHF paging, and the capability of the public safety community to internally resolve any interference issues, IAFC and IMSA strongly urge the Commission not to modify Part 90 of its rules in a manner to restrict on critical VHF paging operations.

**Cross-Banding.** IAFC and IMSA support the proposed clarification of the Commission's rules to modify Section 90.243(b)(1) to state that cross-band repeaters are permitted for all public safety systems, not just medical service systems.[6]

As the Commission states in the NPRM, "all public safety licensees may operate cross-band repeaters under the general mobile relay rules in Section 90.243."[7] Thus, IMSA and IAFC believe that clarifying the language in Section 90.243(b)(1) to specifically state that cross-band repeaters are permitted for all public safety systems is warranted to prevent licensee confusion.

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[6] *See* NPRM at para. 7.

[7] *Id.*

**Expired Licenses.** IAFC and IMSA support the proposal, to the extent necessary, to amend Part 90 to prohibit the coordination of frequencies associated with expired licenses until the frequencies are deleted from the ULS database and become available for reassignment in accordance with the policy of the Land Mobile Communications Council ("LMCC").[8]

As the Commission notes, it is IMSA and IAFC's belief that all Part 90 coordinators currently are following this procedure and that the procedure benefits the applicant community and supports the Commission's formalization of this policy.

**Transit Systems and Toll Roads.** Considering that not all metropolitan transit systems are publicly owned, the Commission seeks comment on whether to amend Section 90.20 of its Rules to allow privately-run toll road and transit systems to use frequencies in the Public Safety Pool and whether certain conditions or restrictions should be placed on such authorizations to ensure a benefit to public safety.[9]

IMSA and IAFC disagree with the Commission's basic premise underlying this issue -- namely that privately-owned transit and toll road operators are "indistinguishable" from their governmentally owned counterparts.[10] These entities are readily distinguishable.

The services provided by privately-owned transit and toll road operators are quasi-public in nature. While, as the Commission notes, such systems are not directly operated by government agencies, such transportation services are normally provided pursuant to an agreement or similar arrangement between the private entity and the state or local government. Standard practice under such arrangements is that the private operator shares the use of spectrum licensed to, and subject to the oversight of, the responsible government agency. This shared use

[8] *See* NPRM at para. 9.

[9] *Id.* at para. 12-13.

[10] *Id.*

allows the government to ensure efficient migration of operations in the event that the agreement with the private entity expires, or is terminated. Commission clarification that such shared use is authorized may have merit.

More importantly, government control of licenses used by private transit and toll road operators allows for effective mobile communications management and control in emergency situations. During emergency events involving transportation, emergency responders often need access to all mobile communications resources in the affected area. This capability is compromised if access to and operational control over local public safety communications and spectrum are diluted by licensing public safety assignments to these private entities.
A pragmatic shared use policy reasonably accommodates the interests of for-profit entities engaged in toll road operation and management on the one hand, and the interests of local government agencies that must have access to all available spectrum during situations involving response and disaster relief on the other.

**Industrial/Business Pool Eligibility.** The Commission seeks comment on whether it should amend Section 90.35 of its Rules to explicitly state that government entities engaged in commercial enterprises (e.g., golf courses and electrical utilities) should be eligible for Industrial/Business Pool frequencies.[11] The Commission reasons that activities such as the operation of a golf course or a utility, whether conducted by a government or otherwise, are "commercial activities" under Section 90.35. The Commission also seeks comment on a request by National Public Safety Telecommunications Council ("NPSTC") that the rule be amended to permit government surveying operations to utilize modern surveying equipment.

[11] *See* NPRM at para. 14.

IMSA/IAFC support the position that government agencies engaged in commercial activities such as golf course operations and electrical distribution should be eligible for assignment under Section 90.35 of the Commission's Rules with respect to those activities. These activities fall squarely within the mobile communications requirements for which frequency assignments under Section 90.35 of the Commission's Rules historically have been allocated. By contrast, these commercial activities frequencies fall well outside of the scope of public safety/emergency activities that support eligibility under Section 90.20 of the Commission's Rules.

IMSA and IAFC support the NPSTC proposal that Part 90 be amended to grant state and local government agencies engaged in surveying to secure itinerant frequencies available for assignment in the Industrial/Business Pool. The nature of surveying operations corresponds closely to the itinerant authority available under Section 90.35(a).

**Part 90 Reorganization.** IAFC and IMSA oppose any Commission initiative to move the Part 90 CMRS rules to Part 22 or Part 27 or to move the rules governing the Public Safety Pool to a separate part, or merely reorganize the existing Part 90 rules.[12] This is a classic example of "a solution in search of a problem." Excising the Public Safety pool rules from Part 90 is not a straightforward proposition, but rather a time-consuming, detail-oriented process. It would create unnecessary duplication of many generally-applicable provisions in Part 90 and impose an unnecessary educational burden on entities that support public safety communications such as equipment vendors and consultants that are part of the public safety mobile communications "ecosystem." In short, the benefits to public safety licensees are not apparent.

[12] *Id.* at para 17-18.

Within the Commission, harmonization of separate Parts may seem manageable initially, particularly when the Public Safety and Homeland Security Bureau is in its infancy and many of the staff in the Wireless Telecommunications Bureau have experience with Public Safety Pool issues and vice versa. Over time, however, segregating the Public Safety Pool from other PLMR services will inevitably result in the inadvertent replication of regulatory efforts and, potentially, the development of inconsistent and incompatible rules.[13] At a minimum, unnecessary resources will need to be expended to ensure synchronization of the rules -- a problem that consolidation under Part 90 has largely addressed.

**4.9 GHz Band.** IMSA and IAFC support the M/A-COM, Inc. proposal to afford primary (vs. secondary) status to certain permanent fixed links.[14] Specifically, the Commission should clarify that secondary status for fixed links in the 4.9 GHz attaches only to links used for stand-alone point-to-points systems. Fixed links which operate as part of an integrated public safety network should be licensed on a primary basis. The proposal complements the area-wide licensing scheme established for 4.9 GHz assignments. IMSA and IAFC believe that such use will enhance the ability of public safety licensees to utilize the band for temporary incident scene operations. The point-to-point, backhaul communications are no less critical than the associated mobile communications requirements. Thus, as long as such links are elements of an integrated single network, of which base, mobile units, and/or temporary fixed stations are afforded primary status, primary status for the fixed components of the communications system is appropriate.

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[13] Indeed, this problem is evidenced in this very proceeding in which the Commission seeks comment on new rules governing the disturbance of AM broadcast station antenna patterns, while, at the same time, an apparently identical issue is under active consideration in a rulemaking opened by the Media Bureau. *See* An Inquiry Into the Commission's Policies and Rules Regarding AM Radio Service Directional Antenna performance Verification, Further Notice of Proposed Rulemaking, 16 FCC Rcd 5653 (2001) (MM Docket No. 93-177).

[14] *See* NPRM at para. 19-23.

Adoption of this proposal will increase the reliability of such networks and enhance the ability of public safety entities to deploy dynamic, incident scene mobile communications networks.

**Wireless Medical Telemetry Service.** IAFC and IMSA are members of the Land Mobile Communications Counsel ("LMCC"), and have reviewed LMCC's Comments being filed in this proceeding. IMSA and IAFC support fully the concepts being offered by LMCC regarding the Wireless Medical Telemetry Service.

## III. CONCLUSION

For the foregoing reasons, IMSA and IAFC respectfully request that the FCC resolve this proceeding in a manner consistent with the comments contained herein.

Respectfully submitted,
**INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC.**

**AND**

**INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION**

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